

### **Remarks**

#### ***I. Amendments to the claims***

Claims 24-33 are pending. Claim 24 has been amended to include limitations present in claim 27. Claims 29-31 have been amended to depend from claim 24. Claims 28, 32 and 33 are canceled.

No new matter is introduced by these amendments.

Entry of this amendment is respectfully requested as the amendment is made in order to place the claims in condition for allowance or in a position for appeal should allowance not be granted. After entry of this amendment claims 24-27 and 29-31 are pending. Reconsideration of the pending claims is requested.

#### ***II. Examiner Interview***

Applicants thank Examiner Zara for granting applicants' representative, Ian Griswold, an interview on February 17, 2009. During the interview the current amendment of claim 24 was discussed, in which HIV and HTLV were removed from the list of viral infections treated by the method. While no agreement we reached, Examiner Zara did indicate that the amendments would likely overcome the pending rejections under 35 U.S.C. § 103.

#### ***II. Claim Rejection under 35 U.S.C. § 103***

##### ***Claims 24-31***

Claims 24-26 and 28 are rejected under 35 U.S.C. § 103(a) as allegedly obvious over Player *et al.* (International Patent Publication WO 2004/096795) and Nakagawa *et al.* (U.S. Patent No. 5,707,987) in view of Schubert *et al.* (U.S. Patent Publication US 2006/0094081). Claims 27, 32, and 33 are rejected under 35 U.S.C. § 103(a) as allegedly obvious over Player *et al.* (International Patent Publication WO 2004/096795) and Nakagawa *et al.* (U.S. Patent No. 5,707,987) in view of Gendelman *et al.* (AIDS. Vol. 4, pages 221-228, 1990).

The Office alleges that it would be obvious to treat an HIV or HTLV infection using the compounds of formula I, as allegedly taught by Player *et al.* and Nakagawa *et al.* Applicants disagree. However in the interest of advancing prosecution, claim 24, the only independent claim, has been amended to recite:

“[a] method for the treatment of a viral infection in a subject in need thereof...

wherein the viral infection is caused by:

(1) any one of the following RNA viruses: severe acute respiratory syndrome (SARS), poliovirus, human rhinovirus, hepatitis A, C, D, and E viruses, vaccinia virus, Japanese encephalitis virus, dengue virus, human coronavirus, Ebola virus, influenza virus, or sindbis virus; or

(2) any one of the following DNA viruses: a herpes simplex virus, human adenovirus, hepatitis B virus, cytomegalovirus, EB virus, herpesvirus, human herpesvirus, smallpox virus, polyoma virus, or human papilloma virus.”

Because none of the references of record teach methods of treating any of the viruses recited in claim 24, the references do not teach all of the limitations of the claim and it (and all claims dependent therefrom) are allowable.

For at least this reason there is no *prima facie* case of obviousness and Applicants request that the remaining rejections be withdrawn.

**Conclusion**

It is respectfully submitted that the present claims are in a condition for allowance. If any issues remain, the Examiner is requested to contact the undersigned in order to arrange a telephone interview, prior to issuance of the Notice of Allowance. It is believed that a brief discussion of the merits of the present application may expedite prosecution and allowance of the claims. Applicants reserve the right to file a continuation application to pursue subject matter covered by the present claims.

Respectfully submitted,

KLARQUIST SPARKMAN, LLP

One World Trade Center, Suite 1600  
121 S.W. Salmon Street  
Portland, Oregon 97204  
Telephone: (503) 595-5300  
Facsimile: (503) 595-5301

By /Ian J. Griswold/  
Ian J. Griswold, Ph.D.  
Registration No. 57,338